

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN THE MATTER OF:	)	Application for Ex Parte Administrative
	)	Warrant for Entry Inspection, Investigation
Sandoval Zinc Company Site	)	and Sampling pursuant to Section 104(e)
Smelter Road Highway 51,	)	of the Comprehensive Environmental
Marion County,	)	Response, Compensation, and
Sandoval, Illinois	)	Liability Act, 42 U.S.C. § 9604(e)
	)	
	)	Civil Docket No. 3:12-mc-00035-WDS

**EX PARTE ADMINISTRATIVE WARRANT FOR ENTRY, INSPECTION,  
INVESTIGATION, SAMPLING, AND TAKING PHOTOGRAPHS**

TO: THE UNITED STATES MARSHALL FOR THE SOUTHERN DISTRICT OF ILLINOIS; RICHARD C. KARL, DIRECTOR, SUPERFUND DIVISION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5; AND ANY DULY DESIGNATED EMPLOYEES OR REPRESENTATIVES OF U.S. EPA.

Proper application having been made pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 for an ex parte administrative warrant for entry, inspection, investigation, sampling, and taking photographs, at the property owned by Mr. Russell R. Rhodes which is located east of the Village of Sandoval in Marion County, Illinois (Site), this Court finds that the United States has established reasonable grounds for issuance of an administrative warrant to authorize representatives of the United States Environmental Protection Agency (EPA or Agency), including contractors authorized by the EPA to assist in the execution of this warrant, as well as authorized representatives of the Illinois Environmental Protection Agency (IEPA), to enter, inspect, investigate and collect samples as is required and necessary pursuant to Section 104(e) of CERCLA, 42 U.S.C. §9604(e). The materials supporting the United States' application include:

- Memorandum in Support of Application for Ex Parte Administrative Warrant for Entry, Inspection, Investigation and Sampling pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9604(e).
- The Declaration of Remedial Project Manager Pamela Molitor.
- Various written contacts between EPA, Scott Farmer and Russell Rhodes.

These supporting materials submitted to the Court establish that this Site was selected for investigation and sampling because there is a reasonable basis to believe that there may be a release or threat of release of one or more hazardous substances, pollutants or contaminants at the Site that could present an unacceptable risk to human health and/or the environment. This risk has resulted in the Site being placed on the National Priority List of Superfund sites. The supporting materials further establish that Russell Rhodes owns the Site, and that despite diligent efforts by EPA, EPA has been unable to contact or locate Mr. Rhodes to request entry and access to the Site to conduct a remedial investigation and feasibility study of the Site pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9604(e).

Through the declaration of Pamela Molitor and otherwise, the EPA has explained the scope and nature of the investigation under CERCLA, and the estimated time that will be required to conduct the investigation at the Site. As part of EPA's efforts to fully characterize the nature and extent of contamination on the property, EPA will use various types of equipment, including a hand auger, geoprobe, drilling equipment and geophysical equipment. It also will be necessary to conduct a Site reconnaissance which may include conducting site surveys including property boundary, well inventory, utility rights-of-way, and topographic information; conducting geological investigations of surface and subsurface soil which may include the collection of samples at the surface and at

varying depths in the soil; conducting hydrogeological investigations of ground water and surface water which may include installation and development of wells, and execution of pump tests and groundwater/surface water elevation measurements; conducting ecological investigations of wetland and habitat delineation/ function and value assessment including wildlife observations, benthic community characterization, identification of endangered species and bioassays; collecting samples of soils, waste piles, containers or contents of containers found at the Site; constructing a staging area; and setting up a field laboratory. It also will be necessary and desirable to take photographs of portions of the Site during the performance of the investigation. All of these activities are a typical part of a remedial investigation that EPA performs under the authority of the CERCLA.

Upon completion of the investigation, EPA will determine what actions will be taken at the Site to address any threats to human health and/or the environment. The action will be set forth in a proposed plan which will be presented to the public for its input and comment. A final decision on the action to be taken at the Site will be set forth in a Record of Decision. At this time, U.S. EPA does not know what the selected action will be for the Site and is not seeking access for such actions.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9604(e), the United States Environmental Protection Agency and its duly designated representatives, including contractors authorized by the EPA to assist in the execution of this warrant, as well as authorized representatives of the IEPA, are hereby entitled to and are hereby permitted to enter upon the premises and property of Mr. Rhodes located east of the Village of Sandoval, approximately 1,440 feet (0.27 miles) east of U.S. Route 51 and 2240 feet (0.42 miles ) south of U.S. Route 50 at the eastern end of Smelter Road, Marion County, Sandoval, Illinois, for the purpose of conducting a remedial investigation and feasibility study of the Site to assess the

nature and extent of contamination of the Site by hazardous substances, pollutants or contaminants, and for determining the need for response action at the Site under the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act. As part of the investigation, the EPA, including contractors authorized by the EPA to assist in the execution of this warrant, as well as authorized representatives of the IEPA, are permitted to enter and to re-enter the Site in order to inspect the Site, including buildings, facilities, containers, and equipment and fixtures; to take photographs and videotape; to collect samples including samples of soil, hazardous substances, pollutants, contaminants, surface and groundwater, and containers; to excavate areas at the Site; to use various types of equipment, including a hand auger, geoprobe, drilling rigs, geophysical equipment and other equipment and methods deemed necessary by EPA representatives to determine the nature and extent of contamination at the Site; to construct a staging area which may include the placement of trailers and serve as an area to leave equipment at the Site during the investigation; and to set up a field laboratory. If EPA performs any excavation or other activities that significantly alters the surface grade of any areas of the Site, EPA shall fill in excavations or otherwise re-grade disturbed areas as necessary to re-establish the current surface grade, on completion of its investigation activities.

The entry, inspection, investigation and sampling shall be conducted within reasonable limits and in a reasonable manner between the hours of 8:00 a.m. and 7:00 p.m., may commence on the date of this order, and shall continue for the number of days that are reasonably necessary for the EPA to complete the inspection, not to exceed one year. If additional time is needed, the government shall make application to renew this Order.

A copy of this Warrant shall be left at the premises at the time of the inspection and EPA will post a notice at the Site providing a name and number for any owner of the property to contact if he/she has any questions or concerns.

The United States Marshal is hereby authorized and directed to assist representatives of the EPA and the IEPA in such manner as reasonably may be necessary and required to execute this Warrant and the provisions contained herein, including, but not limited to, gaining entry upon the premises, the investigation and photography thereof, and the collection of samples from the premises.

DATED THIS 7<sup>th</sup> DAY OF May, 2012.

  
UNITED STATES DISTRICT JUDGE